

Candice Jackson (WSBA No. 39162)
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FREEMAN MATHIS & GARY, LLP
1010 B Street, Suite 300
San Rafael, California 94901
Telephone: 415.352.6434

On behalf of Women's Liberation Front,
Counsel for "Interested Party" and
Proposed Intervenor-Defendant ANDREA KELLY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT RICHLAND

JOHN DOE 1; JOHN DOE 2; JANE DOE1;
JANE DOE2; JANE DOE 3; and all persons
similarly situated,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
CORRECTIONS; STEPEHN SINCLAIR,
Secretary of the Department of Corrections, in
his official capacity,

Defendants,

and,

BONNEVILLE INTERNATIONAL, INC.,
d.b.a. KIRO Radio 97.3 FM, a Utah Corporation;
THE MCCLATCHY COMPANY, LLC, A
California Limited Liability Company, d.b.a.
The Tacoma News Tribune; and ANDREA
KELLY, an individual;

Interested Parties.

CASE NO.: 4:21-cv-05059-TOR

**DECLARATION OF CANDICE
JACKSON IN SUPPORT OF MOTION
TO INTERVENE AND FOR
PROCEDURAL RELIEF, OF
"INTERESTED PARTY" AND
PROPOSED INTERVENOR-
DEFENDANT ANDREA KELLY**

Assigned to: Hon. Thomas O. Rice

I, Candice Jackson, declare as follows:

1. I am counsel for "Interested Party" and moving party Andrea Kelly in the above-captioned action. I make this declaration in support of the Motion to Intervene, and for Procedural Relief, of "Interested Party" and Proposed Intervenor-Defendant Andrea Kelly. I am over the age of 18 and if called could and would competently testify hereto.
2. Attached hereto as Exhibit A are true and correct copies of email correspondence among

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counsel for this matter, dated April 20 and April 21, 2021.

I declare under penalty of perjury under the laws of the United States of America and under the laws of the State of Washington that the foregoing statements are true and correct.

Dated this 23rd day of April, 2021, at San Rafael, California.

_____/s Candice Jackson_____
Candice Jackson (WSBA No. 39162)

1 Certificate of Service

2 I hereby certify that on April 23, 2021, I electronically filed the foregoing with the Clerk of the
3 Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic
4 Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for
5 the foregoing specifically identifies recipients of electronic notice. I hereby certify that I have
6 emailed the document, from my email address (cjackson@fmglaw.com) to the following non-
CM/ECF participants or interested parties who have not yet appeared in the action:

7 Michele Earl-Hubbard, michele@alliedlawgroup.com (counsel for The McClatchy
8 Company, LLC dba The Tacoma News Tribune)

9 Jason Englund, jenglund@bonneville.com (counsel for Bonneville International, Inc. dba
10 KIRO Radio 97.3 FM)

11 Dated: April 23, 2021

12 By: s/ Candice Jackson
13 FREEMAN MATHIS & GARY, LLP
14 Candice Jackson
15 1010 B Street, Suite 300
16 San Rafael CA 94901 Tel. 415.352-6412
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EXHIBIT A

Candice Jackson

From: Joe Shaeffer <joe@mhb.com>
Sent: Tuesday, April 20, 2021 10:59 AM
To: Candice Jackson; Dibble, Candie M (ATG); Jason Englund; Michele Earl-Hubbard; Ethan Frenchman; Forster, Katherine
Cc: Women's Liberation Front _ Does v_ Washington State Department of Corrections et al_ _16143_93231_ E_Mails
Subject: [EXTERNAL] RE: Does v. DOC, 21-cv-05059-TOR [IWOV-iManage.FID30231413]

Dear Counsel:

Thank you for your email. We are well aware of *Burt v. Washington State Dep't of Corr.*, 168 Wash. 2d 828, 830, 231 P.3d 191, 193 (2010), as corrected (Sept. 14, 2010), which holds that requestors under the Washington PRA are necessary parties who must be joined as "parties" in an action brought under 42.56.540. In that case, the requestor was never included as a party, was never formally served, was handed a permanent injunction order after it had already been entered by the court, and had his motion to intervene denied by the Superior Court. The Court never held that the requestor must be named as a "defendant," but rather that they must be included as a "party."

We do not see how *Burt* applies to this case, where we included the requestors as named parties in the caption of the lawsuit and the "parties" section of the complaint, where the court issued summonses for each of the requestors, where we have provided all parties with all documents filed in the case, and where we have formally served two of the three requestors, and will formally serve the third in short order. To date, none of the requestors have sought to intervene, nor have their attorneys even appeared in the case to raise the issues you raise here. If you have any authority for your suggestion that the requestors must be named as "defendants" rather than as interested parties with full notice, please refer us to that authority so that we may consider it.

As for the new requestors, we do not believe that they are necessary parties within the meaning of Federal Rule of Civil Procedure 19.

Sincerely,
Joe Shaeffer

From: Candice Jackson <CJackson@fmglaw.com>
Sent: Monday, April 19, 2021 12:14 PM
To: Dibble, Candie M (ATG) <candie.dibble@atg.wa.gov>; Jason Englund <jenglund@bonneville.com>; Michele Earl-Hubbard <michele@alliedlawgroup.com>; Joe Shaeffer <joe@mhb.com>; ethanf@dr-wa.org; Forster, Katherine <katherine.forster@mto.com>
Cc: Women's Liberation Front _ Does v_ Washington State Department of Corrections et al_ _16143_93231_ E_Mails <{F30231413}.iManage@wcs.fmglaw.com>
Subject: RE: Does v. DOC, 21-cv-05059-TOR [IWOV-iManage.FID30231413]

Thank you, Candie.

Joe, in light of the below, indicating that DOC is going to take the same position with respect to each of these "new" requestors, as it has as to the requestors named as "Interested Parties" in your complaint, then I believe in order to maintain and proceed with your complaint and PI motion, you need to name all requestors affected by the TRO not merely as "interested parties" but as indispensable parties. I'm sure you're aware of case law holding that in this

posture, DOC does not adequately represent the interests of requestors. The requestors are thus indispensable parties, and your complaint is fatally flawed as a matter of law and subject to dismissal for failure to name indispensable parties.

Please advise as to your intention in this regard – for instance, will you agree to amend your complaint, properly name and serve defendants (including all requestors who now have a right of mandatory intervention/rights as indispensable parties), and note a hearing on a motion for PI for a time when the requestors have been properly notified of their right to be heard in this case?

Candice Jackson
On behalf of WoLF,
Counsel for “Interested Party” Andrea Kelly

Candice Jackson

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D: 415.352.6419 | tracy.wilson@fmglaw.com



CA | CT | FL | GA | KY | MA | NJ | NY | PA | RI
[Please read this important notice and confidentiality statement](#)

From: Dibble, Candie M (ATG) <candie.dibble@atg.wa.gov>

Sent: Monday, April 19, 2021 12:06 PM

To: Jason Englund <jenglund@bonneville.com>; Candice Jackson <CJackson@fmglaw.com>; Michele Earl-Hubbard <michele@alliedlawgroup.com>; Joe Shaeffer <joe@mhb.com>; ethanf@dr-wa.org; katherine.forster@mto.com

Subject: [EXTERNAL] Does v. DOC, 21-cv-05059-TOR

Counsel:

Attached are additional requests the DOC has received seeking information related to the housing of inmates who identify as Trans Gender, Gender Non-Conforming or Intersex.

The DOC is currently still identifying records responsive to requests P-1375, P-19274 and P-19460. Records responsive to the latest requests will not likely be provided before the Court’s determination of the motion for preliminary injunction in this case.

Candie M. Dibble
Assistant Attorney General
Corrections Division
1116 Riverside Ave
Spokane, WA 99201
(509) 456-3123